

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

LUIS ALFREDO SANTIAGO-
SEPULVEDA, et al.,

Plaintiffs

v.

ESSO STANDARD OIL COMPANY
(PUERTO RICO), INC., et al.,

Defendants

CIVIL 08-1950 (CCC)
CIVIL 08-1986 (CCC)
CIVIL 08-2025 (CCC)
CIVIL 08-2032 (CCC)
CIVIL 08-2044 (CCC)

OPINION AND ORDER

The matter before the court is counter defendant gasoline retailers' motion to dismiss the counterclaims of Total Petroleum Puerto Rico, Inc. ("Total") and Esso Standard Oil Company (Puerto Rico), Inc. ("Esso"). (Docket No. 171.) Total filed its third amended counterclaim –its most recent– on December 4, 2008. (Docket No. 172.) Esso filed its amended counterclaims on October 2 and 3, 2008. (Docket Nos. 68-70, 78, 79.) Plaintiffs from case number 08-2032 filed a motion to dismiss the counterclaim on September 29, 2008 (Docket No. 62), and filed another such motion on December 3, 2008 after their first motion was mooted by amendments to Total's first counterclaim.¹ (Docket Nos. 148 & 171.) Total filed an opposition to plaintiffs' motion on January 28, 2009. (Docket No. 207.)

Today I issued an Opinion and Order granting summary judgment to plaintiffs/counter defendants in cases 08-1950, 08-1986, and 08-2025, thereby dismissing all counterclaims outstanding against those parties that were brought

¹ I note that Total's third amended counterclaim was filed subsequent plaintiffs' second motion to dismiss. This most recent counterclaim was largely the same as the previous one, however, and only differed in its inclusion of two new claims for relief. Accordingly, there was no need for plaintiffs to submit a modified motion to dismiss, and all claims for relief of Total's most recent counterclaim are addressed herein.

1 CIVIL 08-1950 (CCC)
2 CIVIL 08-1986 (CCC)
3 CIVIL 08-2025 (CCC)
4 CIVIL 08-2032 (CCC)
5 CIVIL 08-2044 (CCC)

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6 by Total and Esso. (Docket No. 228.) As the counter defendants from case 08-
7 2032 did not join in the other counter defendants' motion for summary judgment,
8 they were not addressed in that Opinion and Order. They are nearly identically
9 situated, however, to counter defendants in 08-1986, in that Total was a named
10 defendant in their originally filed complaint (08-2032, Docket No. 1), and in that
11 they reached a franchise agreement prior to the franchise termination deadline
12 announced by Esso. (Docket No. 81.) Accordingly, I hereby incorporate, *mutatis*
13 *mutandis*, that portion of the summary judgment Opinion and Order addressing
14 counter defendants from case 08-1986. (Docket No. 228.) As the counter
15 defendants in case 08-1986 were entitled to dismissal of all counterclaims against
16 them, so too are the counter defendants of case 08-2032.

17 Accordingly, the counter defendants' motion is GRANTED and Total's and
18 Esso's counterclaims are DISMISSED.

19 SO ORDERED.

20 At San Juan, Puerto Rico, this 25th day of February, 2009.

21 S/ JUSTO ARENAS
22 Chief United States Magistrate Judge
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